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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,703	08/19/2003	Jan Corona	JCO1-H02	5124

7590 02/10/2005

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EXAMINER


GELLNER, JEFFREY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No. 10/643,703	Applicant(s) CORONA, JAN	
	Examiner Jeffrey L. Gellner	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12,14,15 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8-12 and 20 is/are rejected.
- 7) ☒ Claim(s) 6,7,14 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “throat walls” of line 2, wet vessel “walls” of line 6 of claim 1; and, “side walls” of line 4 must be shown or the feature(s) canceled from the claim(s). Examiner considers the embodiment of Figs. 5 and 6 to have a single throat wall and single side wall since the assemblies are circular. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 10 is objected to because of the following informality:

In line 9, the language "defined by an open top" is awkward.

Appropriate correction is required.

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Zipser (Des. 151,115).

As to claim 1, Zipser discloses a plant/dry gift assembly (Figs. 1-4) comprising a dry assembly (Fig. 2) comprising a dry vessel defining a bottom enclosed portion extending upwardly into a throat (region of Fig. 2 that receives structure of Fig. 4; combination shown in Fig. 1), the throat bounded on its exterior by throat wall (outer walls of structure in Fig. 2) and the throat termination in a top opening (shown in Fig. 2), the dry assembly having non-perforated bottom portion walls (shown in Fig. 2); and, a wet assembly comprising a wet vessel (Fig. 4) defined by walls having an outer surface (Fig. 4), the wet vessel having an enclosed bottom and open top (Fig. 4), the outer surface cooperating with the throat wall and not said bottom (Figs. 1, 2, and 4), whereby the wet vessel is insertable (Fig. 1) into the top opening but not into said

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bottom portion and the wet vessel is substantially adjacent to the dry vessel top opening (Figs. 1, 2, and 4), the wet vessel walls are in direct contact with the throat inner walls (Figs. 1, 2 and 4).

As to Claim 3, Zipser further discloses the dry assembly defined by a dry chamber (hollowed region in structure of Fig. 2) within which dry contents are retained (in that this region capable of holding dry contents), the dry chamber formed by the bottom enclosed portion.

As to Claim 4, Zipser further discloses the intersection of the bottom portion and the throat portion designed to permit the wet vessel to be placed in the throat yet prevent the wet vessel from being placed into the dry chamber(Figs. 1, 2, and 4).

As to claim 10, Zipser discloses a combination flower arrangement and gift assembly (Figs. 1-4) comprising a dry assembly (Fig. 2) comprising a dry vessel defining a bottom chamber formed by a bottom wall and bottom side walls extending upwardly from the bottom wall (Fig. 2), the bottom chamber sidewall transitioning into a throat (Fig. 2) formed by throat side walls, the throat terminating in a tip opening (Fig. 2); and, a wet assembly (Fig. 4) comprising a wet vessel (Fig. 4), the wet vessel configured to retain an arrangement of living plants and configured to cooperate with the dry assembly such that the wet vessel defined by an open top (Figs. 2 and 4), the wet vessel is insertable into the dry vessel open top opening (Fig. 1), but prevented from being insertable into the bottom chamber and the wet vessel tip is substantially adjacent to the dry vessel top opening (Figs. 1, 2, and 4).

As to Claim 12, Zipser further discloses the dry assembly defined by a dry chamber (hollowed region in structure of Fig. 2) within which dry contents are retained (in that this region capable of holding dry contents).

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 8, and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Zipser (Des. 151,115).

As to claims 5, 8, and 9, the limitations of Claim 3 are disclosed as described above. Not disclosed are the dry contents being candy, bath products, or a stuffed figurine. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gift assembly of Zipser by using the dry assembly to store/display either candy, bath products, or a stuffed figurine since it is well known to reuse containers for a multitude of uses.

Claim 11 is rejected under 35 U.S.C. §103(a) as being unpatentable over Zipser (Des. 151,115) in view of MacGregor (US 2,546,104).

As to claim 11, the limitations of Claim 10 are disclosed as described above. Zipser further discloses the dry vessel defining a throat adjacent to the top opening (Fig. 2) and the wet vessel and dry vessel cooperatively arranged whereby the wet assembly is insertable into the throat (Figs. 1, 2, and 4). Not disclosed is the dry assembly made of a clear vessel. MacGregor, however, discloses a dry assembly what is clear (in that a pan is used (at col. 1 lines 7-9) and pans are know to be clear). It would have been obvious to one of ordinary skill in the art at the

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time of the invention to modify the gift assembly of Zipser by using a clear dry assembly as disclosed by MacGregor so as to make use of convenient containers.

Allowable Subject Matter

Claims 6, 7, 14, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-12, 14, and 15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lundberg, Chetta Jr., and Levy disclose in the prior art various gift assemblies with wet and dry assemblies.

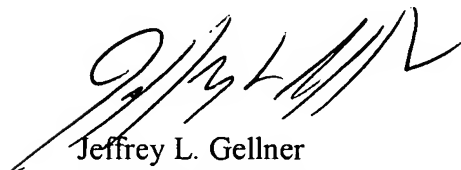
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner
Primary Examiner